

WILMERHALE

January 12, 2021

David W. Bowker

By ECF and Email

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The Honorable Analisa Torres
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007
Torres_NYSDChambers@nysd.uscourts.gov

Re: *Altana Credit Opportunities Fund SPC et al. v. Bolivarian Republic of Venezuela*,
No. 1:20-cv-8402-AT [rel. 1:19-cv-3123-AT]
Pre-Motion Letter for Leave to File Second Amended Complaint

Dear Judge Torres,

On behalf of our clients—Altana Credit Opportunities Fund SPC, Altana Credit Opportunities Fund 1 SP, and Altana Funds Ltd. Cayman (collectively, “Plaintiffs”)—I respectfully submit this pre-motion letter, pursuant to Rule III.A of your Honor’s Individual Practices, for leave to file a Second Amended Complaint. The Second Amended Complaint is enclosed here as Exhibit 1.

Under Federal Rule of Civil Procedure 15(a)(2), “a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). “Under this liberal standard, a motion to amend should be denied only if the moving party has unduly delayed or acted in bad faith, the opposing party will be unfairly prejudiced if leave is granted, or the proposed amendment is futile.” *Colbert v. Rio Tinto PLC*, 2019 WL 10960490, at *5 (S.D.N.Y. July 29, 2019) (Torres, J.).

This liberal standard is satisfied here. Since the filing of the Amended Complaint on November 5, 2020 (Dkt. 12), Plaintiffs recently have amended their positions on the bonds at

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issue in this case, for which Defendant, the Bolivarian Republic of Venezuela (“Venezuela”), has failed to make required interest and principal payments. Thus, the Second Amended Complaint reflects the most current status of Plaintiffs’ bond positions and claims. There is no issue of undue delay or bad faith. Nor is there any potential prejudice to Venezuela, which has not yet been served, and the case scheduling deadlines have been adjourned pending service under the Foreign Sovereign Immunities Act (*see* Dkt. 20).

Because, as just noted, Plaintiffs have not yet served Venezuela, Plaintiffs do not know if Venezuela is represented by counsel in this matter; nor do Plaintiffs know Venezuela’s position on this request. As with prior filings in this case, given that we have previously corresponded with Venezuela’s counsel in a related case, we have copied them on this letter.

Sincerely,

/s/ David W. Bowker
David W. Bowker

cc: Kent A. Yalowitz
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
ALTANA CREDIT OPPORTUNITIES FUND
SPC, ALTANA CREDIT OPPORTUNITIES
FUND 1 SP, and ALTANA FUNDS LTD.
CAYMAN,

Plaintiffs,

-against-

BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

20 Civ. 8402 (AT)
[rel. 19 Civ. 2123 (AT)]

[PROPOSED] ORDER

It is hereby ORDERED that Plaintiffs' request for leave to file their Second Amended Complaint is granted.

SO ORDERED.

Dated: _____, 2021
New York, New York

ANALISA TORRES
United States District Judge